

PATENT COOPERATION TREATY

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From the  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

SCIENTIFIC-ATLANTA, INC.  
LEGAL DEPARTMENT

To:  
KENNETH M. MASSARONI  
SCIENTIFIC-ATLANTA, INC.  
INTELLECTUAL PROPERTY DEPARTMENT  
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LAWRENCEVILLE, GA 30044

PCT

WRITTEN OPINION

(PCT Rule 66)

Date of Mailing  
(day/month/year)

06 APR 2004

Applicant's or agent's file reference

REPLY DUE

F-7259-PC

within 2 months/days from  
the above date of mailing

International application No.

International filing date (day/month/year)

Priority date (day/month/year)

PCT/US02/20519

26 June 2002 (26.06.2002)

29 June 2001 (29.06.2001)

International Patent Classification (IPC) or both national classification and IPC

IPC(7): H04N 7/10,173 and US Cl.: 725/39-61 & 86-108

Applicant

SCIENTIFIC-ATLANTA, INC.

1. This written opinion is the first (first, etc.) drawn by this International Preliminary Examining Authority.

2. This opinion contains indications relating to the following items:

- I  Basis of the opinion
- II  Priority
- III  Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV  Lack of unity of invention
- V  Reasoned statement under Rule 66.2 (a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI  Certain documents cited
- VII  Certain defects in the international application
- VIII  Certain observations on the international application

3. The applicant is hereby invited to reply to this opinion.

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension. See rule 66.2(d).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also For an additional opportunity to submit amendments, see Rule 66.4.

For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.

For an informal communication with the examiner, see Rule 66.6

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.

4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 29 October 2003 (29.10.2003).

Name and mailing address of the IPEA/US

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## WRITTEN OPINION

International application No.

PCT/US02/20519

## I. Basis of the opinion

## 1. With regard to the elements of the international application:\*

the international application as originally filed  
 the description:

pages 1-32 \_\_\_\_\_, as originally filed  
 pages NONE \_\_\_\_\_, filed with the demand  
 pages NONE \_\_\_\_\_, filed with the letter of \_\_\_\_\_

the claims:

pages 33-39 \_\_\_\_\_, as originally filed  
 pages NONE \_\_\_\_\_, as amended (together with any statement) under Article 19  
 pages NONE \_\_\_\_\_, filed with the demand  
 pages NONE \_\_\_\_\_, filed with the letter of \_\_\_\_\_

the drawings:

pages 1-31 \_\_\_\_\_, as originally filed  
 pages NONE \_\_\_\_\_, filed with the demand  
 pages NONE \_\_\_\_\_, filed with the letter of \_\_\_\_\_

the sequence listing part of the description:

pages NONE \_\_\_\_\_, as originally filed  
 pages NONE \_\_\_\_\_, filed with the demand  
 pages NONE \_\_\_\_\_, filed with the letter of \_\_\_\_\_

## 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).  
 the language of publication of the international application (under Rule 48.3(b)).  
 the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:

contained in the international application in printed form.  
 filed together with the international application in computer readable form.  
 furnished subsequently to this Authority in written form.  
 furnished subsequently to this Authority in computer readable form.  
 The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.  
 The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4.  The amendments have resulted in the cancellation of:

the description, pages NONE \_\_\_\_\_  
 the claims, Nos. NONE \_\_\_\_\_  
 the drawings, sheets/fig NONE \_\_\_\_\_

5.  This opinion has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed."

**WRITTEN OPINION**International application No.  
PCT/US02/20519**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. STATEMENT**

Novelty (N)	Claims <u>4-51, 53-62, 70 &amp; 73-74</u>	YES
	Claims <u>1-3 &amp; 63-69 &amp; 71-72</u>	NO
Inventive Step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-74</u>	NO
Industrial Applicability (IA)	Claims <u>1-74</u>	YES
	Claims <u>NONE</u>	NO

**2. CITATIONS AND EXPLANATIONS**

Please See Continuation Sheet

**WRITTEN OPINION**

International application No.

PCT/US02/20519

**VII. Certain defects in the international application**

The following defects in the form or contents of the international application have been noted:

Claim 52 is objected to under PCT Rule 66.2(a)(iii) as containing the following defect(s) in the form or contents thereof: Claim 52 depends from itself, and is therefore indefinite.

**Supplemental Box**

(To be used when the space in any of the preceding boxes is not sufficient)

**TIME LIMIT:**

The time limit set for response to a Written Opinion may not be extended. 37 CFR 1.484(d). Any response received after the expiration of the time limit set in the Written Opinion will not be considered in preparing the International Preliminary Examination Report.

**V. 2. Citations and Explanations:**

Claims 1-3 lack novelty under PCT Article 33(2) as being anticipated by Dixon, (U.S. Pat # 5,933,206).

Considering claim 1, the claimed feature of a recordable media content purchasing system comprising a first memory reads on the VOD system 10 along with storage devices 14, Fig. 1 & col. 2, lines 57-67 thru col. 3, lines 1-10.

The system manager 41 meets the claimed first processor configured with the first memory to download recordable media content at one of a plurality of various download times for purchase, col. 3, lines 10-28.

Considering claims 2-3, Dixon teaches that the downloading of the movies takes into account the historical consumption of the instant movie, col. 10-26 & col. 4, lines 12-25.

Claims 63-69 & 71-72 lack novelty under PCT Article 33(2) as being anticipated by Candelore, (U.S. Pat # 6,057,872).

Considering claim 63, Candelore discloses a recordable media content purchasing method comprising receiving a user request to purchase of recordable media content; see col. 5, lines 5-15 & col. 8, lines 45-65.

The claimed downloading of the requested media at various download times is inherent in Candelore.

Considering claim 64, see Fig. 4-Fig. 6.

Considering claim 66, see col. 5, lines 5-15 & Fig. 1.

Considering claims 67-69, the claimed subject matter reads on VOD, NVOD and PPV, all of which are disclosed in Candelore, col. 3, lines 5-30.

**Supplemental Box**

(To be used when the space in any of the preceding boxes is not sufficient)

Considering claims 71-72, see col. Fig. 3-Fig. 6.

Claims 4-6 lack an inventive step under PCT Article 33(3) as being obvious over Dixon.

Considering claim 4, examiner takes note that at the time the invention was made, encryption was well known in the art. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Dixon to encrypt the movies before transmission, for the known benefit of ensuring only authorized viewers receive and/or display the movie.

Considering claims 5-6, 35-38 Dixon does not discuss the transmission speed. Examiner takes note that at the time the invention was made, it was known to transmit video programming at different speeds. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Dixon to transmit the data at higher in order for the viewer to get the movie ASAP, or at a lower speed in order to conserve bandwidth.

Claims 7-51 & 53-62 lack an inventive step under PCT Article 33(3) as being obvious over Dixon, in view of Russo, (U.S. Pat # 5,619,247).

Considering claims 7-8, Dixon does not discuss the detail of the customer's receiver. However, Russo is also a VOD system, and discloses movies being downloaded and stored at a customer's site, Abstract & col. 4, lines 10-22. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Dixon to download and store movies at the customer site at least so that the viewer can see the movie several times without having it transmitted each time.

As for the further claimed feature of the viewer being billed differently for different transmission rates, examiner notes that at the time the invention was made it was known to provide the customer with the option of different transmission quality of service levels. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Dixon to provide the customers with the different transmission rates, at least for the desirable benefit of allowing the customer the option to customize his transmission quality.

Considering claims 9-10, Dixon & Russo read on the claimed subject matter.

Considering claims 11-18, 24, 26, examiner takes note that at the time the invention was made; maximizing the use of bandwidth was very well known, such as for instance using peak or non-peak bandwidth times. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to operate Dixon in a manner that the movies are transmitted at different bandwidths at least in order to most efficiently utilize the different bandwidth availability.

Considering claims 19-23, the claimed subject matter reads on the movies stored as files at a central site in both Dixon & Russo.

Considering claim 25, Dixon & Russo provide purchase verification and viewer authentication.

Considering claim 27, both Dixon & Russo provide a hard disk drive.

Considering claims 28-34, the claimed subject matter reads on Dixon, Fig. 2.

Considering claims 35-38 Dixon does not discuss the transmission speed. Examiner takes note that at the time the invention was made, it was known to transmit video programming at different speeds. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Dixon to transmit the data at higher in order for the viewer to get the movie ASAP, or at a lower speed in order to conserve bandwidth.

Considering claims 39-43, examiner notes that at the time the invention was made it was known to provide the customer with

**Supplemental Box**

(To be used when the space in any of the preceding boxes is not sufficient)

the option of different transmission quality of service levels. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Dixon to provide the customers with the different transmission rates, at least for the desirable benefit of allowing the customer the option to customize his transmission quality.

Considering claims 44-51, examiner takes note the GUI technology such as EPG was well known in the art for providing customers with interactive screens for selecting movies.

Considering claims 53-55, examiner takes note that at the time the invention was made, it was known to inform viewers when movies are not available and require a PIN or some other authentication algorithm. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Dixon to notify viewers of movie availability and alternate purchase options, at least in order to provide a more user-friendly environment. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Dixon to require a PIN before ordering a movie to ensure that the requestor is authorized to make such a purchase.

Considering claim 56, both Dixon and Russo enable a user input device.

Considering claims 57-62, see Russo col. 4, lines 45-60.

Claims 70 & 73-74 lack an inventive step under PCT Article 33(3) as being obvious over Candelore.

Considering claims 70 & 73-74, examiner takes note that at the time the invention was made, it was known to provide data based upon the server's and bandwidth use and availability; and variable bit rate and off-peak bandwidth. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Candelore with the claimed features, at least for the advantage of a more flexible system, in order for the customer pay according to the level of service provided.

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**NEW CITATIONS**

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US 6,057,872 A (CANDELORE) 02 May 2000. Abstract; Fig. 3-Fig. 6.

US 5,687,331 A (VOLK, et al) 11 November 1997. Abstract; Fig. 2; Fig. 3; col. 16; col. 17